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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement*/ submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. *0002802*

ENG

The International Federation of Human Rights (FIDH) expresses its is deep concern about the human rights situation in Libya.

Libya has been ruled, over the last 31 years by the Government of Colonel Qaddhafi which abolished the constitution and instituted severe constraints on the enjoyment of basic human rights, including the right to freedom of opinion, expression and association. President Qaddhafi regime is supported by extra-governmental organisations such as "the revolutionary committees" and the "Comrades organisations" which control most aspects of citizen's lives. He is also aided by an extensive security apparatus consisting of several elite military units led by officers from the inner circle, including Qaddhafi's personal bodyguards, local revolutionary Committees as well as purification Committees. The daily activities of individuals are therefore are under constant surveillance. These organs have unlimited power and their activities, such as arrests, detentions and torture are sustained by secrecy and impunity.

This repressive system is based on the exclusion of any judicial supervision. Detainees, following their arbitrary arrest, are invariably held incommunicado and told nothing about their arrest. They have no access to a lawyer or any judicial authority supervision that could act as a safeguard to the detainees who are, in many cases, tortured and ill-treated from the moment they are arrested. The widespread of torture is a reflection of the heavy reliance of the Libyan summary "revolutionary justice system" on confession no matter how that confession was obtained.

Hundreds of detainees are being held without charge or trial, some for more than twenty years.

Some of them were charged, tried and acquitted by courts, but instead of being released they continue to be held, mostly in the Abu Sleem prison in Tripoli. Others were simply never brought to trial or formally charged. Several detainees have died in custody in the last few years as a result of torture and ill treatment and harsh prison conditions, including lack of medical care, poor hygiene and overcrowded cells.

Several people have disappeared inside and outside the country and their fate or whereabouts remain unknown. M. Mansour Kikhya, former minister, member of the Board of the Arab Organisation of Human Rights was kidnapped in Cairo in December 1993 presumably by Libyan State agents.

In the same context extra-judicial executions have been used against Libyans.

Families and tribes of suspected government opponents are punished for the political activities of their relatives. This punishment takes many forms, including house destruction, taking relatives as hostage until those sought by the "security revolutionary forces" give themselves up and other economic and political reprisals.

Libya has no constitution, parliament or any elected bodies of any kind. The overall tenor of political and social life is exceptionally rigid and intolerant and is controlled by laws that prohibit the enjoyment of basic human rights as enumerated in the International Covenant for Civil and political rights and other international Human rights instruments of which Libya is a member. Those laws have prevented the Libyans from free participation in public affairs or in discussing government policies. Even Government officials are not allowed to express an opinion on political issues publicly or give press interviews, even about issues relevant to their own spheres of responsibility, without prior permission from the "inner circle" of President Qaddhafi.

The Government controls all channels of expression, including radio, television and the press, and imposes strict censorship on all newspapers, magazines and books imported into Libya. Independent (non-governmental) public gathering such as cultural seminars and public lectures are totally banned. The Protection of the Revolution laws of 1971 and 1972 (See below) impose stringent restrictions on freedom of expression and as they prescribe severe punishments for those who may have "reservations" about governmental policies. These laws define a number of crimes against the "revolution" that include:

- Public criticism of the Government in books or newspapers
- Interference in public affairs, including joining political organizations or instigating public protests;
- Participating in strikes or demonstrations;
- Providing others with information that may make them hostile to the Government
- Encouraging materially and morally the spread of anti-government ideas.

The adoption of a number of laws has led to violations of the right to life, liberty, security of person, ownership of property and a fair trial and has left no scope for freedom of opinion, thought, assembly and association:

- Act No. 45 of April 1972, under the terms of which any exercise of the Right to freedom of assembly or expression, such as strikes or sit-ins, constitutes a criminal offence and may be punishable by death penalty.

- The Prohibition of Party Politics Act No. 71 of May 1972 designates any independent political activities or party politics as high treason against the country, which results to the death penalty.

- Act No. 5 of March 1988 under which the "People's Court" was established, vests the Office of the People's Prosecutor with authority to investigate political offences, without stipulating the need for judicial authorisation of detentions or the right of detainees to contact the outside world and receive medical care.

- The Promotion of Freedom Act No. 20 of 1991, which permits imposition of a death sentence on anyone whose continued existence would pose a threat to society or lead to its disintegration, stipulates that citizens have a right to exercise authority and self-determination solely through the people's congresses and committees.

- The Purification from Nepotism, Bribery, Atheism and Narcotic Drugs Act No. 10 of 1994 prescribes the penalty of amputation of the hand not only for anyone who, by engaging in small-or-large-scale economic activity without authorisation, could be regarded as a thief but also for anyone convicted of corruption or embezzlement of public or private funds.

- Act No. 15 of July 1996, which regulates the holding of foreign currency, prescribes very severe penalties, including amputation of a hand or a leg, for anyone holding foreign currency illegally, any dealings in or circulation of dollars outside the framework of the Central Bank being regarded as high treason.

- The "Code of Honour" of 9 March 1997 designates as a criminal offence any act which affects the people's development, advocates tribal extremism or involves the bearing or smuggling of arms, trafficking therein or the sabotage of public property. The said Code also adopts the concept of collective punishment, which constitutes a flagrant violation of the principle of the personal nature of punishment in international law, insofar as a town, a village or a local, tribal or family council which covers up for perpetrators of those offences is liable to the penalty of deprivation of services (water, electricity, gas, telephone, food supplies, etc.), prohibition of participation in local councils, suspension of all development projects and discontinuance of State social services.

Moreover, the FIDH deplores the death of some more than 130 migrant workers from Sub-Saharan Africa who lost their lives since August 2000 as a result of racist violence. The Libyan government has failed so far to protect migrants, who are extremely numerous in Libya, from racist attacks.

The Human Rights Committee, in examining the report of the government of Libya in 1998, expressed its serious concern about the above mentioned legislation and the severe practice of violations of civil and political rights in Libya.

The International Federation for Human calls upon the government of Libya

- to implement all the recommendations set forth by the Human Rights Committee
- to take immediate steps to bring the capacities and actions of its security force into conformity with the standard of international law, in particular those of the International Covenant on Civil and political rights
- to abrogate all laws granting impunity to specified forces (Revolutionary Committees) or persons committing human rights violations
- to take immediate steps to stop the practice of torture and other cruel, inhuman and degrading treatment or punishment
- to abrogate all legislation and abolish all policies implementing collective punishments imposed on persons, tribes and towns for alleged crimes of family members and other extended relationship to them;
- to release all prisoners of opinion and conscience and to compensate all those who suffered arbitrary arrest, detention or other miscarriages of justice, especially under special courts such as revolutionary courts.
- to make steps towards a "Constitution" or "basic Law" which guarantees the independence of the judiciary that makes all Libyans, including the Government, subject to the rule of law.
- to take immediate steps in order to protect the rights of the migrants
- to guarantee the enjoyment of the freedom of opinion, expression and association.